

AN INTRODUCTION TO SENTENCING



October 24, 2017
Phoenix, Arizona

Presented By:

HENRY WHITMER

Deputy County Attorney
Yavapai County Attorney's Office

Distributed By:

ARIZONA PROSECUTING ATTORNEYS' ADVISORY COUNCIL

1951 West Camelback Road, Suite 202
Phoenix, Arizona 85015

Elizabeth Ortiz
Executive Director

SENTENCING RANGES 2016-2017

NON-DANGEROUS, FIRST FELONY OFFENSE - § 13-702(D)						
CLASS	MIT.*	MIN.*	P	MAX.*	AGG.*	MAX. PROBATION
2	3	4	5	10	12.5	7
3	2	2.5	3.5	7	8.75	5
4	1	1.5	2.5	3	3.75	4
5	.5	.75	1.5	2	2.5	3
6	.33	.5	1	1.5	2	3

* TRIER OF FACT MUST FIND 1 AGGRAVATOR/MITIGATOR BEYOND REASONABLE DOUBT TO SENTENCE OVER/UNDER PRESUMPTIVE, & 2 AGGRAVATORS/MITIGATORS TO SENTENCE OVER/UNDER MAX/MIN. A.R.S. § 13-702(C)

 - PROBATION ELIGIBLE, 12 MO. JAIL POSSIBLE AS A TERM OF PROBATION

MISDEMEANOR OFFENSES - § 13-707			
CLASS	MAX. JAIL	MAX. PROBATION	MAX. FINES
1	6 MO.	3 YR.	\$2,500
2	4 MO.	2 YR.	\$750
3	1 MO.	1 YR.	\$500

NON-DANGEROUS, REPETITIVE FELONY OFFENSES															
CLASS	CATEGORY 1 - § 13-703(A), (H)					CATEGORY 2 - § 13-703(B), (I)					CATEGORY 3 - § 13-703(C), (J)				
	1 NON-HISTORICAL PRIOR; OR 2 ND OFFENSE IN SAME COMPLAINT BUT DIFFERENT OCCASIONS OF OFFENSE					1 HISTORICAL PRIOR; OR 2+ NON-HISTORICAL PRIORS; OR 3+ OFFENSES IN SAME COMPLAINT BUT DIFFERENT OCCASIONS OF OFFENSE					2+ HISTORICAL PRIORS				
	MIT.*	MIN.*	P	MAX.*	AGG.*	MIT.*	MIN.*	P	MAX.*	AGG.*	MIT.*	MIN.*	P	MAX.*	AGG.*
2	3	4	5	10	12.5	4.5	6	9.25	18.5	23	10.5	14	15.75	28	35
3	2	2.5	3.5	7	8.75	3.25	4.5	6.5	13	16.25	7.5	10	11.25	20	25
4	1	1.5	2.5	3	3.75	2.25	3	4.5	6	7.5	6	8	10	12	15
5	.5	.75	1.5	2	2.5	1	1.5	2.25	3	3.75	3	4	5	6	7.5
6	.25	.5	1	1.5	2	.75	1	1.75	2.25	2.75	2.25	3	3.75	4.5	5.75

* TRIER OF FACT MUST FIND 1 AGGRAVATOR/MITIGATOR BEYOND REASONABLE DOUBT TO SENTENCE OVER/UNDER PRESUMPTIVE, & 2 AGGRAVATORS/MITIGATORS TO SENTENCE OVER/UNDER MAX/MIN. A.R.S. § 13-703(k)

DANGEROUS OFFENSES - § 13-704									
"DANGEROUS" - INVOLVING DISCHARGE, USE OR THREATENING EXHIBITION OF A DEADLY WEAPON OR DANGEROUS INSTRUMENT OR INTENTIONAL/KNOWING INFLECTION OF SERIOUS PHYS. INJURY. § 13-105(13).									
CLASS	FIRST DANGEROUS FELONY OFFENSE § 13-704(A)			ONE HISTORICAL DANGEROUS PRIOR § 13-704(B), (D)**			TWO HISTORICAL DANGEROUS PRIORS § 13-704(C), (E)**		
	MIN.	P	MAX.	MIN.	P	MAX.	MIN.	P	MAX.
2	7	10.5	21	14	15.75	28	21	28	35
3	5	7.5	15	10	11.25	20	15	20	25
4	4	6	8	8	10	12	12	14	16
5	2	3	4	4	5	6	6	7	8
6	1.5	2.25	3	3	3.75	4.5	4.5	5.25	6

** FOR F2 & F3, DANGEROUS PRIOR(S) MUST BE F1, F2, OR F3, OTHERWISE MAY SENTENCE CATEGORY 2 OR 3. § 13-704(D; E)

DANGEROUS, REPETITIVE FELONY OFFENSES § 13-704(F)						
CLASS	2 ND DANGEROUS OFFENSE IN SAME COMPLAINT BUT DIFFERENT OCCASIONS OF OFFENSE			3 RD + DANGEROUS OFFENSE IN SAME COMPLAINT BUT DIFFERENT OCCASIONS OF OFFENSE		
	MIN. (P)	MAX.	INCREASED MAX.	MIN. (P)	MAX.	INCREASED MAX.
2	10.5	21	26.25	15.75	28	35
3	7.5	15	18.75	11.25	20	25
4	6	8	10	10	12	15
5	3	4	5	5	6	7.5
6	2.25	3	3.75	3.75	4.5	5.6

SENTENCING RANGES 2016-2017

DCAC § 13-705

	FIRST OFFENSE			ONE PREDICATE PRIOR			TWO PREDICATE PRIORS		
	MIN	P	MAX	MIN	P	MAX	MIN	P	MAX
13-705(A)		LIFE			LIFE			LIFE	
13-705(B)	LIFE/13	LIFE/20	LIFE/27	LIFE/13	LIFE/20	LIFE/27	LIFE/13	LIFE/20	LIFE/27
13-705(C)	13	20	27	23	30	37		LIFE	
13-705(D)	10	17	24	21	28	35		LIFE	
13-705(E)	5	10	15	8	15	22		N/A	
13-705(F)	2.5	5	7.5	8	15	22		N/A	

MANDATORY DOC OFFENSES <ol style="list-style-type: none"> 1. DANGEROUS OFFENSES § 13-704 2. SECOND OR MORE OFFENSE NOT ON THE SAME OCCASION § 13-703(H)-(I) 3. PROMOTING GANG ALLEGATION: +3 YR. [CLASS 4, 5, OR 6]; +5 YR. [CLASS 2 OR 3] § 13-714 4. DCAC (POSSIBLY FLAT & CONSECUTIVE) § 13-705 5. DRUGS OVER THRESHOLD (SEE BELOW) 6. MFG. DANG. DRUG § 13-3407(F) 7. NEW FELONY OFFENSE WHILE ON INTENSIVE PROBATION § 13-917(B) 8. PROMOTING/ASSIST HUMAN SMUGGLING § 13-715 9. METH (SEE BELOW) 10. ASSLT ON OFFICER W/WEAPON OR SERIOUS INJURY §13-1204 (C) 	OFFENSES COMMITTED WHILE OUT OF CUSTODY § 13-708 <ol style="list-style-type: none"> 1. ON PROBATION OR PAROLE §13-708(A & C) <ol style="list-style-type: none"> a. NEW OFFENSE: NO LESS THAN PRESUMPTIVE b. UNDERLYING OFFENSE: PROBATION REVOKED/RESENTENCED OR REINSTATED 2. ON PRE-CONVICTION RELEASE/TASC <ol style="list-style-type: none"> a. +2 YR. PRISON, CONSECUTIVE TO NEW OFFENSE § 13-708(D) <ol style="list-style-type: none"> 1. 2 YR – FLAT 2. NEW OFFENSE – 85% SENTENCING TIMELINES (RULES OF CRIM. PRO. 26.3(A)(1)) <ol style="list-style-type: none"> 1. NEW OFFENSE: 15 – 30 DAYS AFTER GUILT <ol style="list-style-type: none"> a. 26.3(B) IF PRE-SENTENCE HEARING REQUESTED, THEN WITHIN 60 DAYS OF GUILT.
METH RANGES <ol style="list-style-type: none"> 1. POSS. FOR SALE; POSS. OF EQUIP./CHEMICALS; MANUFACTURING; TRANSPORT FOR SALE: (MANDATORY DOC) § 13-3407 <ol style="list-style-type: none"> a. 1ST OFFENSE § 13-3407(E) <ol style="list-style-type: none"> i. 5 - 10 - 15 b. 2ND OFFENSE § 13-3407(F) <ol style="list-style-type: none"> i. 10 - 15 - 20 	MANDATORY CONSECUTIVE SENTENCING <ol style="list-style-type: none"> 1. PROBATION VIOLATION B/C NEW CONVICTION §13-708(E) 2. SEXUAL ASSAULT §13-1406(C) 3. ESCAPE 1ST & 2ND § 13-2503(B) - 2504(B) 4. SEX TRAFFICKING UND 18 W/PROSTITUTION § 13-1307(C) 5. SOME DCAC § 13-705(M) 6. ANY FELONY WHILE IN PRISON § 13-711(B) 7. LEAVING SCENE INVOLVING DEATH/SER. INJUR. 28-661(D) 8. KIDNAPPING VICTIM UNDER 15 YRS OLD. §13-1304(B)
MANDATORY FLAT TIME <ol style="list-style-type: none"> 1. SERIOUS/VIOLENT/AGGRAVATED FELONY W/2 PRIOR SERIOUS/VIOLENT/AGGRAVATED FELONIES § 13-706 2. PRISONER ASSLT W/INTENT TO INCITE § 13-1207(B) 3. SERIOUS DRUG OFFENSE § 13-3410 4. DCAC 1ST DEGREE § 13-705 (EXCEPT § 705(F)) 5. DANGER/DEADLY ASSLT BY PRISONER § 13-1206 6. INVOLVING MINOR IN DRUG OFFENSE § 13-3409 7. METH FOR SALE § 13-3407 8. DANGEROUS OFFENSE COMMITTED WHILE ON RELEASE FOR DANGEROUS OFFENSE 13-708 (B) 9. VIOLENT CRIME ON MJ, POND, PADD §41-1604.15 10. ASSLT ON OFFICER W/WEAPON OR SERIOUS INJURY §13-1204 (C) 	FOREVER PRIORS § 13-105(22) <ol style="list-style-type: none"> 1. DANGEROUS OFFENSE (REGARDLESS OF JURISDICTION) 2. ILLEGAL CONTROL OF CRIM. ENTERPRISE 3. AGGRAVATED DUI 4. DCAC 5. MANDATORY DOC OFFENSE 6. 3RD AND MORE PRIORS DOC RELEASE PROVISIONS <ol style="list-style-type: none"> 1. EARNED RELEASE CREDITS (85% OF SENTENCE) - § 41-1604.07 2. MEDICAL/COMPASSIONATE/CHAIN GANG WORK RELEASE - § 31-233 JURY SIZE <ol style="list-style-type: none"> 1. 12 IF DOC COULD BE 30 OR MORE YRS. §21-102(A) 2. 8 IF DOC MUST BE LESS THAN 30 YRS. §21-102(B) 3. 6 IF COURT IS NOT COURT OF RECORD. §21-102(D)

DRUG THRESHOLD AMOUNT - § 13-3401(36)

DRUG	THRESHOLD AMOUNT
AMPHETAMINE & METH	9 GRAMS (INCLUDING IN LIQUID SUSPENSION)
COCAINE	9 GRAMS (POWDER FORM); 750 MILLIGRAMS (ROCK FORM)
LSD	½ MILLILITER (LIQUID FORM); 50 DOSAGE UNITS (BLOTTER FORM)
MARIJUANA	2 POUNDS
PCP	4 GRAMS (POWDER FORM); 50 MILLILITERS (IN LIQUID SUSPENSION)
HEROIN	1 GRAM
IF DRUG NOT ENUMERATED	AMOUNT OF DRUG EQUAL TO \$1,000